

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

VINCENT P. CLINE,

Plaintiff,

v.

Case No. 4:16-cv-14332
District Judge Linda V. Parker
Magistrate Judge Anthony P. Patti

DERAMUS FRANCE,

Defendant.

/

**ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF'S
MOTION TO COMPEL DISCOVERY (ECF No. 44), EXTENDING
DISCOVERY DEADLINES, AND RESCHEDULING SETTLEMENT
CONFERENCE**

This matter came before the Court for consideration of Plaintiff's motion to compel discovery (ECF No. 44), Defendant's response in opposition (ECF No. 49), Plaintiff's reply (ECF No. 50), and the parties' joint list of unresolved issues (ECF No. 52). Judge Parker referred this motion to me for a hearing and determination. (ECF No. 45.) As a result of the COVID-19 pandemic and Michigan Governor Whitmer's order to shelter in place, a telephonic hearing was held on March 31, 2020, at which counsel appeared by telephone and the Court entertained oral argument regarding Plaintiff's motion.

Upon consideration of the motion papers and oral argument, and for all of the reasons stated on the record by the Court, which are hereby incorporated by

reference as though fully restated herein, Plaintiff's motion to compel (ECF No.

44) is **GRANTED IN PART** and **DENIED IN PART** as follows:

- The parties agreed to stipulations both on the record and in their joint list of unresolved issues (ECF No. 52), covering many topics, *inter alia*, Defendant's prior arrest and misconduct records, if any. Although the Court declines to list those specific stipulations in this Order, they are now contained in the record and are subject to Court enforcement.
- Defendant must produce, in electronic format, those materials requested by Plaintiff that Defendant is ready and willing to produce, as listed within the statement of facts contained in his brief in response (ECF No. 49, PageID.315) to Plaintiff's motion to compel (ECF No. 44). Plaintiff shall bear the \$69 cost of production, as calculated by Defendant, but may seek reimbursement of those costs from the *pro bono* fund.
- Defendant need not produce Plaintiff's medical records in light of defense counsel's representation to the Court on the record that Defendant does not possess nor have access to the records. *See Fed. R. Civ. P. 26(b)(1)* ("[p]arties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case, considering . . . the parties' relative access to relevant information"). Plaintiff may, however, seek to obtain his medical records from other sources by completing and submitting the appropriate release forms, by subpoena, if necessary.
- Defense counsel represented, on the record, that Defendant has and agrees to produce two videos of the incident at issue. Defendant must produce those videos by **Wednesday, April 1, 2020**.
- In light of defense counsel's representations on the record, Defendant must also produce any and all photographs from the incident report or OTIS which are still available. Those photographs maintained in color must be produced in color.

Unless otherwise provided by this Order, Defendant must **PRODUCE** all of the above-referenced items, whether ordered by the Court or stipulated to by the parties, on or before **Tuesday, April 14, 2020**. Additionally, the Court will **EXTEND** the current discovery deadline to **Monday, June 1, 2020**, for the limited purposes of allowing Plaintiff to review the discovery materials produced by Defendant, take Defendant's deposition, and submit non-party subpoenas in an effort to obtain medical records and/or transcripts only. Finally, the Court will **ADJOURN** and **RESCHEDULE** the upcoming settlement conference to **Monday, June 8, 2020, at 2:00 p.m.**, as reflected in the updated notice the Court just issued.

No costs are awarded, neither side having prevailed in full.

IT IS SO ORDERED.

Dated: March 31, 2020

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Anthony P. Patti
UNITED STATES MAGISTRATE JUDGE